

Exhibit 1

Declaration of George H. Malas In Support of Plaintiff's
Motion for Alternative Service of Process on Defendant
David Saffron

1 Danielle E. Karst (D.C. Bar No. 481881)
2 Timothy J. Mulreany (Maryland Bar No. 8812160123)
3 **COMMODITY FUTURES TRADING COMMISSION**
4 Three Lafayette Centre
5 1155 21st Street, N.W.
6 Washington, D.C. 20581
Telephone: (202) 418-6158 (Karst)
Telephone: (202) 418-5306 (Mulreany)
Facsimile: (202) 418-5523
dkarst@cftc.gov
tmulreany@cftc.gov

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 **COMMODITY FUTURES TRADING**
10 **COMMISSION,**

11 Plaintiff,
12 v.
13 DAVID GILBERT SAFFRON
a/k/a DAVID GILBERT and
CIRCLE SOCIETY, CORP.,

14 Defendant.

15 Case No. 2:19-cv-1697-JAD-DJA

16 **DECLARATION OF GEORGE H. MALAS**
17 **IN SUPPORT OF PLAINTIFF'S MOTION**
18 **FOR ALTERNATIVE SERVICE OF**
19 **PROCESS ON DEFENDANT DAVID**
20 **SAFFRON**

21 I, George H. Malas, hereby declare as follows:

22 **I. INTRODUCTION**

23 1. I have personal knowledge of the following facts and, if called as a witness, could and
24 would testify competently thereto.
25 2. I have worked as a Futures Trading Investigator for Plaintiff Commodity Futures Trading
Commission (“Plaintiff”, “CFTC,” or “Commission”) since September 2009. Prior to joining the
Commission, I held positions as a Compliance Officer and Branch Administrative Manager at
Deutsche Bank Securities Inc. and as a Compliance Examiner, Investigator and Regulatory
Analyst at the National Association of Securities Dealers (now known as “FINRA”). I have a

1 Bachelor of Science in Business Administration, with a Concentration in Finance, from Towson
2 State University and a Master of Business Administration from Johns Hopkins University.

3 3. I am the Futures Trading Investigator assigned to assist in the investigation of David
4 Gilbert Saffron (“Saffron”) and Circle Society, Corp. (“Circle Society”) (collectively,
5 “Defendants”).

6 **II. BACKGROUND**

7 4. On September 30, 2019, the CFTC filed a Complaint for Injunctive Relief, Restitution,
8 Disgorgement and Civil Monetary Penalties Under the Commodity Exchange Act (the
9 “Complaint”).

10 5. On October 7, 2019, Defendant Circle Society was served with the following documents
11 via electronic email to Circle Society’s Registered Agent P. Sterling Kerr (“Kerr”)
12 (sterling@sterlingkerrlaw.com): (1) Complaint (ECF No. 1); (2) Civil Cover Sheet; (3) Signed
13 Summons (ECF No. 4); (4) Motion to Permit Appearance of Government Attorneys (ECF No.
14 3); (5) Motion and Memorandum to Seal and Proposed Order (ECF No. 2); (6) Motion and
15 Memorandum for *Ex Parte* Statutory Restraining Order and Proposed Order (ECF No. 5); (7)
16 Declaration of CFTC Futures Trading Investigator George Malas with Exhibits (ECF Nos. 5-1,
17 6-1); (8) Motion and Memorandum for Preliminary Injunction and Proposed Order (ECF No. 6);
18 and (9) Sealed Court Order re Motions for Pretrial Equitable Relief and Related Matters (ECF
19 No. 9). *See* Affidavit of Service on Defendant Circle Society, Corp. and Supporting Exhibits
20 (ECF No. 14).

21 6. On October 8, 2019, the same above-listed documents were also served on Circle
22

1 Society via United Parcel Service (“UPS”) overnight delivery to Circle Society’s Registered
 2 Agent Kerr at 2450 St. Rose Parkway, Suite 120, Henderson, Nevada 89074. *See* Affidavit of
 3 Service on Defendant Circle Society, Corp. and Supporting Exhibits (ECF No. 14).

4 7. As further discussed below, numerous attempts to serve Defendant Saffron at seven
 5 different locations across three states have been unsuccessful.

6 **III. ATTEMPTS AT SERVICE**

7 **California**

8 8. On October 4, 2019, the CFTC contracted with OC Process Servers to serve Saffron
 9 the documents noted above in paragraph 5. Based upon my review of: (a) information and
 10 documents produced to the CFTC by several pool participants solicited by Saffron; (b) account
 11 records produced to the CFTC by various virtual currency exchanges; (c) online databases; and
 12 (d) other information obtained during the course of this investigation, I discovered numerous
 13 addresses in California that were used by Saffron.¹ As such, service was attempted on Saffron at
 14 multiple California addresses as set-forth below:²

Date	Address	Outcome
October 7, 2019	[REDACTED] Los Angeles, CA [REDACTED]	This property is an office building and the process server spoke with a “Mr. Novion who said [Saffron] never worked here, he used to be one of their clients” and that Saffron “is worth nothing.”
October 7, 2019	[REDACTED] Los Angeles, CA [REDACTED]	Process server spoke to the current owner of the property, Sean Rouhani, who reported that Saffron rented the home for four (4) months and moved out in January 2019.

25 ¹ Based on my review of online databases, Saffron appears to have resided in the Los Angeles, CA area
 26 for approximately 20 years.

27 ² Pursuant to LR IC 6-1, the street addresses of service attempts are redacted from this Declaration but
 28 can be provided to the Court *in camera* or under seal.

October 7, 2019	[REDACTED] North Hollywood, CA [REDACTED]	This property is a high-rise apartment complex and the process server represented that Saffron's name was not listed on the building directory. The process server reported that he spoke to a few residents of the apartment complex; however, they all stated they did not know who Saffron was.
October 8, 2019	[REDACTED]. Los Angeles, CA [REDACTED]	The process server spoke to a male at this residence named "Kent" who stated that Saffron moved to Las Vegas and no longer lives at this property.
October 10, 2019	[REDACTED] Woodland Hills, CA [REDACTED]	The process server represented that he spoke with a white male at this property who refused to give his name and stated that he bought the house three (3) years ago and they used to get mail for Saffron. The process server also reported that he spoke with a neighbor of this address who confirmed that Saffron used to rent the property but moved a few years ago.

See California process server's affidavit of non-service, a copy of which is found as Exhibit A to my Declaration.

9. Based upon my review of: (a) information and documents produced to the CFTC by several pool participants solicited by Saffron; (b) account records produced to the CFTC by various virtual currency exchanges; (c) online databases, and (d) other information obtained during the course of this investigation, I discovered numerous telephone numbers associated with and/or used by Saffron.

10. On October 20, 2019, the process server attempted service by calling thirteen (13) telephone numbers believed to be associated with Saffron resulting in the following report from the process server:

- 1 a. Five (5) numbers were disconnected or no longer in service.
- 2 b. Four (4) numbers were answered by a generic voicemail message (*e.g.*, the
- 3 wireless customer you are calling is not available, please try again later).
- 4 c. Two (2) numbers were answered but the process server was told she had the
- 5 wrong number when he asked to speak with Saffron.
- 6 d. Two (2) numbers were not answered and had no outgoing voicemail message.

7 See California process server's affidavit of non-service, a copy of which is found as Exhibit A.

8 **Florida**

9 11. On October 4, 2019, the CFTC contracted with Eagle Legal Services, Inc. to serve
10 Saffron with the documents noted above in paragraph 5 at his parents' residence located in
11 Ormond Beach, Florida based on the fact that Saffron provided this address as his residence in a
12 Superior Court of the State California, County of Los Angeles case against him based on the
13 same conduct at issue here. This information can be found in the Superior Court of the State
14 California, County of Los Angeles court records for Case No. BC723555. On October 7, 2019,
15 the process server reported that he attempted service at the Ormond Beach address and spoke
16 with a female occupant who was approximately 70 years old and stated that she did not know
17 anyone by the name of Saffron. The process server also represented that the female occupant
18 told him to contact the police department and then came out of the house and took a picture of
19 the server's license plate. On October 10, 2019, the process server returned to the Ormond
20 Beach address to attempt service. The process server reported that he knocked on the door of the
21 residence and a white male approximately 75-80 years old answered the door. The process
22 server asked this individual if Saffron was there and the individual stated that Saffron does not
23 live there but that Saffron's father, Alan Saffron, does. At that point, the female occupant that
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1 the process server previously spoke with on October 7, 2019, “rushed to the door and angrily”
2 told the male occupant to “shut the door now,” and then slammed the door closed. *See* Florida
3 process server’s affidavit of non-service, a copy of which is found as Exhibit B to my
4 Declaration.

5 **Nevada**

6 12. During the course of the CFTC’s investigation which led to the filing of the Complaint,
7 I undertook efforts to identify a current address for Saffron, including searching online databases
8 and reviewing documents provided to the CFTC from various sources. The address of [REDACTED]
9 [REDACTED] Vegas, Nevada [REDACTED] was identified as a recent, possible address for Saffron.

10 13. On October 4, 2019, the CFTC contracted with Attorney’s Process to serve Saffron with
11 the documents noted above in paragraph 5. On October 9, 2019, the process server reported
12 back that he made multiple attempts to serve Saffron at his last known address but was
13 unsuccessful. The process server represented that he made one attempt on October 7, 2019, but
14 was unable to gain access to the security gate in front of the property and reported no vehicles or
15 people present. On October 8, 2019, the process server represented that he made two attempts to
16 serve Saffron, but was unable to gain access to the security gate and reported no vehicles or
17 people present. The process server made a final service attempt on October 18, 2019, but was
18 again unable to gain access to the security gate and reported no vehicles or people present.
19 Further, the process server represented that neither Saffron nor Circle Society’s name was listed
20 on the gate directory. *See* Nevada process server’s affidavit of attempted service, a copy of
21 which is found as Exhibit C to my Declaration.

E-Mail

14. During this investigation, the CFTC discovered at least thirteen (13) email addresses used
2 by Saffron and/or Circle Society. Based upon my review of: (a) information and documents
3 produced to the CFTC by several pool participants solicited by Saffron; (b) account records
4 produced to the CFTC by various virtual currency exchanges; (c) online databases; and (d) other
5 information obtained during the course of this investigation, I determined that Defendants used
6 the following e-mail addresses: davidsaffron@live.com; Support@Circlesociety.com;
7 newsletter@circlesociety.com; nulpajad@hotmail.com; davidsaffron33@gmail.com;
8 davidsaffron@gmail.com; davidsaffron22@gmail.com; dsaffron@brokendoorfetish.com;
9 david@buycyberspace.com; a9@a9models.com; iamdavidsaffron.com@wix-domains.com;
10 kyc@circlesociety.com; and davidsaffron@mail.com. On October 18, 2019, I sent an e-mail to
11 all of the above-noted e-mail addresses asking if Saffron would agree to waive service of process
12 and accept service of electronic copies via email and/or mailed copies. I requested both delivery
13 receipts and read receipts and determined the following:
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16 a. My e-mail to four (4) addresses (newsletter@circlesociety.com;
17 dsaffron@brokendoorfetish.com; david@buycyberspace.com; and a9@a9models.com) was
18 returned undelivered. *See* Undeliverable e-mails, copies of which are found as Exhibit D to my
19 Declaration.
20

21 b. My e-mail to kyc@circlesociety.com was confirmed as delivered and
22 contained the following return message, “Thank you for our KYC document submission. This
23 email is to confirm receipt of your KYC forms for processing. Thank you. –Circle Society
24 Management.” *See* Delivery receipt e-mail, a copy of which is found as Exhibit E to my
25 Declaration.
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c. I received no read receipts from any of the above-noted email addresses.

Instant Messaging

15. One of the methods through which Saffron solicits and communicates with actual and prospective pool participants is “Telegram,” an instant messaging service founded by two Russian brothers according to news reports. “Telegram” provides users an encrypted platform to communicate with one another and is popular with cryptocurrency traders and developers.³

16. Although the CFTC has been unable to personally serve Saffron, the CFTC understands through communications with several pool participants that Saffron has actually received notice of the filing of the Complaint, other motions, and is very actively monitoring the litigation. For example, on October 7, 2019, a message was posted on Circle Society’s “Official channel” Telegram page which stated in pertinent part:

Please Note PM's to this accounts [sic] with questions relating to CS will not be answerable till October 16th 2019.

If you have any account related Questions please wait till after that date to ask them, as they cannot be addressed till on the day of above or 12-24 hours prior to the above. . . .

See Screenshot of Telegram Message, attached as Exhibit G, p. 1 to my Declaration. In a similar October 10, 2019 message on Circle Society’s “Official channel” Telegram page, there is an excerpt containing the *identical* language included in a recent email that I sent to numerous pool participants seeking additional information:

For your awareness:

You are receiving this email pursuant to the complaint and/or information that you previously provided to me concerning David Saffron and/or Circle Society, Corp.

See Exhibit G to my Declaration, p. 2.

³ See Dave Michaels, *U.S. Regulators Sue Crypto Startup Telegram Over Initial Coin Offering*, Wall St. J., Oct. 11, 2019, <https://www.wsj.com/articles/u-s-regulators-sue-cryptocurrency-startup-telegram-over-initial-coin-offering-11570834242>, attached as Exhibit F to my Declaration.

1 Moreover, on October 18, 2019, the following messages were posted on Circle Society's
2 Telegram page which stated in pertinent part:

3 Apparently I'm guilty already so *no point in going to court on 29th*.

4 ...

5 Record of CS Announcements
6 Forwarded from Circle Society Channel 2019

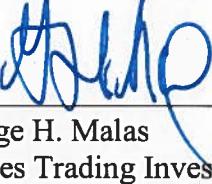
7 All CS Operations are closed Till after October 29th 2019

8 Regards

9 Circle Society Management

10 See Telegram messages, a copy of which is found as Exhibit G, p. 5 to my Declaration (emphasis
11 added).

12 I declare under penalty of perjury that the foregoing is true and correct.

13 
14 George H. Malas
Futures Trading Investigator

15 Executed in Washington, D.C. on October 22, 2019.